

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY (Newark)**

SHANNON GILMORE AND DOLORES GILMORE	:	
	:	
Plaintiff	:	2:14-cv-01204 (SRC)(CLW)
	:	
vs.	:	ANSWER AND AFFIRMATIVE DEFENSES OF
JEFFERSON ASSOCIATES	:	JEFFERSON ASSOCIATES
	:	
Defendants	:	
	:	
	:	

Defendant, Jefferson Associates (“Jefferson” and/or “Defendant”) by way of answer to Plaintiffs’ complaint (the “Complaint”) says:

PRELIMINARY STATEMENT

1. Defendant denies the factual allegations contained within this paragraph. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Defendant refers all questions of law to the Court.

JURISDICTION AND VENUE

2. Defendant neither admits nor denies the factual allegations contained within this paragraph and leaves plaintiffs to their proofs. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Defendant refers all questions of law to the Court.

3. Defendant neither admits nor denies the factual allegations contained within this paragraph and leaves plaintiffs to their proofs. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Defendant refers all

PARTIES

4. Defendant neither admits nor denies this paragraph which makes allegations regarding Plaintiff's status and leaves plaintiff to her proofs. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Defendant refers all questions of law to the Court.

5. Defendant neither admits nor denies this paragraph which makes allegations regarding Plaintiff's status and leaves plaintiff to her proofs. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Defendant refers all questions of law to the Court.

6. Defendant admits it is located at 3 Coral Street, Edison, New Jersey 08837. All other factual allegations are denied. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Defendant refers all questions of law to the Court.

FACTUAL STATEMENT

7. Defendant admits it sent Plaintiff correspondence dated November 20, 2014 in the form annexed to the complaint as Exhibit A. As to the characterization of the correspondence the document speaks for itself and no further response will be made at this time. All other factual allegations are denied. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Jefferson refers all questions of law to the Court.

8. Defendant lacks sufficient knowledge, information or belief as to the truth or falsity of these allegations and therefore denies these allegations. As to the allegations that relate to other parties to this action, Jefferson makes no response. As to those allegations which contain legal

arguments and call for determinations of law, they are denied as such and Jefferson refers all questions of law to the Court.

9. Defendant lacks sufficient knowledge, information or belief as to the truth or falsity of these allegations and therefore denies these allegations. As to the allegations that relate to other parties to this action, Jefferson makes no response. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Jefferson refers all questions of law to the Court.

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTIONS PRACTICES ACT
15 U.S.C. § 1692 et seq

As to Plaintiff Dolores Gilmore only

10. Jefferson repeats and incorporates by reference all responses made in the above paragraphs.

11. Defendant admits it sent Plaintiff correspondence dated November 20, 2014 in the form annexed to the complaint as Exhibit A. As to the characterization of the correspondence the document speaks for itself and no further response will be made at this time. All other factual allegations are denied. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Jefferson refers all questions of law to the Court.

12. Defendant denies the factual allegations contained within this paragraph. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Jefferson refers all questions of law to the Court.

13. Denied.

COUNT II
VIOLATIONS OF THE FAIR DEBT COLLECTIONS PRACTICES ACT
15 U.S.C. § 1692 et seq

As to Plaintiff Shannon Gilmore only

14. Jefferson repeats and incorporates by reference all responses made in the above paragraphs.

15. Defendant admits it sent Plaintiff correspondence dated November 20, 2014 in the form annexed to the complaint as Exhibit A. As to the characterization of the correspondence the document speaks for itself and no further response will be made at this time. All other factual allegations are denied. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Jefferson refers all questions of law to the Court.

16. Defendant lacks sufficient knowledge, information or belief as to the truth or falsity of these allegations and therefore denies these allegations. As to the allegations that relate to other parties to this action, Jefferson makes no response. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Jefferson refers all questions of law to the Court.

17. Defendant lacks sufficient knowledge, information or belief as to the truth or falsity of these allegations and therefore denies these allegations. As to the allegations that relate to other parties to this action, Jefferson makes no response. As to those allegations which contain legal arguments and call for determinations of law, they are denied as such and Jefferson refers all questions of law to the Court.

WHEREFORE Jefferson, hereby requests dismissal of Plaintiffs' Complaint with costs and attorney's fees as allowed under the Fair Debt Collection Practices Act 15 U.S.C. §1692k (a)(3)

or otherwise by statute or rule of court.

SEPARATE DEFENSES

1. Plaintiffs fail to state a claim under State or Federal Statutory Law.
2. Plaintiffs fail to state a claim for which relief may be sought.
3. Any damages allegedly sustained by Plaintiffs were a result of actions by 3rd parties over whom this answering Defendant had no dominion or control. Without limitation see Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6)(C).
4. Any damages allegedly sustained by Plaintiffs were the result of the negligence or wrongdoing of Plaintiffs, which negligence or wrongdoing exceeded any alleged wrongdoing of this answering Defendant.
5. Any claims of Plaintiffs relating to events prior to February 16, 2014 are barred by the one year statute of limitations as a matter of law under 15 U.S.C. §1692k(d).
6. Defendant violated no duty owed to the Plaintiffs.
7. Defendant reserves the right to amend this answering pleading following the receipt of discovery.
8. Defendant complied with all applicable statutes regarding the collection of the underlying debt.
9. By their own actions and otherwise the Plaintiffs herein are not entitled to equitable relief.
10. Defendant made no material misrepresentations.
11. To the extent Plaintiffs claim to or did in fact rely upon any representations by Defendant such reliance was unjustified.

12. Defendant denies the injuries and damages allegedly sustained by Plaintiffs resulted from any actions by Defendant.

13. Defendant therefore reserves the right to assert all defenses which may be pertinent once the precise nature of the claims at issue is ascertained through discovery.

14. In the event that Plaintiffs are able to adequately plead a violation of the FDCPA, their entitlement to statutory damages is capped at \$1,000 per action, not per violation. See Goodmann v. Peoples Bank, et al., 209 Fed. Appx. 111 (3d Cir. 2006); Brown v. Law Offices of Butterfield, U.S. Dist. LEXIS 9822 (E.D. Pa. 2004) and Dowling v. Kucker Kraus & Bruh, LLP, 2005 U.S. Dist. LEXIS 1100 (S.D. NY. 2005).

15. Defendant asserts on information and belief that Plaintiffs' claims were brought in bad faith and for the purposes of harassment and Defendant requests an award of attorneys fees and costs pursuant to 15 U.S.C.A. §1962k(a)(3) and Sanctions pursuant to 28 U.S.C. § 1927.

16. Plaintiffs' state and common law claims are preempted by 15 U.S.C. § 1681h(e). Defendant did not act with malice or willful intent to injure Plaintiff.

17. All or some of the claims for relief in the Complaint herein are barred by the applicable statutes of limitation, including but not limited to 15 U.S.C. § 1681p.

DEMAND FOR SPECIFICATION OF MONEY DAMAGES

Pursuant to Local Rule 8.1, Jefferson Associates demands that Plaintiffs, within fourteen (14) days, furnish Jefferson with a written statement detailing the amount of actual damages claimed as to their individual claims, as asserted in their prayer for relief, and the methodology in assessing such actual damages.

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I hereby certify to the best of my knowledge that the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: June 1, 2015

s/Mitchell L. Williamson
Mitchell L. Williamson, Esq.
Pressler and Pressler, L.L.P.
7 Entin Road
Parsippany, New Jersey 07054
Telephone: (973) 753-5100 / Facsimile: (973) 753-5354
mwilliamson@pressler-pressler.com
Attorneys for Jefferson Associates

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June 2015 I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on counsel of record identified via transmission of Notices of Electronic Filing generated by CM/ECF.

David P. Force, Esq.
Law Offices of Michael Lupolover, P.C.
120 Sylvan Avenue, Ste 300
Englewood Cliffs, NJ 07632
Attorney for Plaintiffs

Dated: June 1, 2015

s/ Mitchell L. Williamson
Mitchell L. Williamson, Esq.
Pressler and Pressler, L.L.P.
7 Entin Road
Parsippany, New Jersey 07054
Telephone: (973) 753-5100 / Facsimile: (973) 753-5354
mwilliamson@pressler-pressler.com
Attorneys for Jefferson Associates